

## REMARKS

### Amendment To Specification

The specification has been amended to identify the claimed sequences of tetracycline repressor, the VP16 transcription activation domain and the human heat shock 70 gene promoter with specific sequence identifiers and corresponding Sequence Listing. Applicant submits that no new matter has been added because the sequences in the Sequence Listing are all derived from the references disclosed in the specification as filed.

### Claim Amendment

Applicant adds a new claim that was drawn to a deposited recombinant vector pDATH-TNF $\alpha$ . Applicant submits that no new matter has been added because the vector pDATH-X has been described in detail in the specification (see Figure 1) and the use of TNF $\alpha$  as a therapeutic gene carried by the vector of the present invention was taught in the specification (e.g. Figures 6-7; page 41, lines 5-7).

### Sequence Listing

The Applicant encloses a Sequence Listing along with the Sequence Compliance Statement, and a PC-formatted computer disk containing the Sequences as file D6087SEQ in text format.

### Rejection Under 35 USC §112, 2<sup>nd</sup> Paragraph

Claim 1 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite. This rejection is respectfully traversed.

The Examiner contends that without particular accompanying and appropriate sequence identifiers, the sequences recited in the claim read on any or all previously reported constructs and sequences of the tetracycline repressor, the VP16 transcription activation domain and the human heat shock 70 gene promoter. Accordingly, Applicant has amended the specification to incorporate a Sequence Listing that lists the specific claimed sequences and amended claim 1 to identify the claimed sequences with specific sequence identifiers. No new matter has been added because the sequences in the Sequence Listing are all derived from the references disclosed in the specification as filed. Applicant submits that the metes and bounds of the claimed subject matter

have been clearly defined in the amended claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. §112, second paragraph, be withdrawn.

Rejection Under 35 USC §112, 1<sup>st</sup> Paragraph

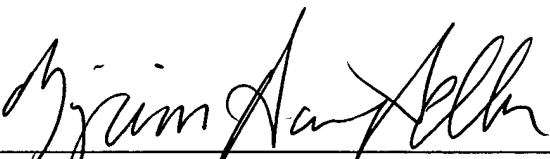
Claim 1 stands rejected under 35 U.S.C. §112, first paragraph, for lack of enablement. This rejection is respectfully traversed.

The Examiner contends that the claim reads on any or all previously disclosed sequences and constructs of the tetracycline repressor, the VP16 transcription activation domain and the human heat shock 70 gene promoter. As discussed above, the claim has been amended to identify the claimed sequences with specific sequence identifiers. Hence, the subject matter has been clearly defined and the amended claim would not read on all previously disclosed sequences and constructs. In view of the disclosure and the deposit of a pDATH plasmid, Applicant submits that sufficient enablement commensurate with the scope of the claim has been provided. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. §112, first paragraph, be withdrawn.

This is intended to be a complete response to the Final Office Action mailed August 25, 2003. Applicant submits that the pending claim is now in condition for allowance. If any issues remain outstanding, the Examiner is respectfully requested to telephone the undersigned attorney of record for immediate resolution.

Respectfully submitted,

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